

Ellicott City, Maryland 21041 ■ 410-313-4076

Division of Property Tax Accounting

FAX 410-313-4099 TDD 410-313-2323

http://www.mde.state.md.us/Programs/LandPrograms/ERRP\_Brownfields/vcp\_info/index.asp

Phone: 410 537 3493

**Maryland's Voluntary Cleanup Program** 

**NEW: Brownfields Redevelopment Reform Act** 

'The VCP reforms the process used to clean up eligible properties that are, or perceived to be, contaminated by hazardous substance release. In addition to providing a streamlined cleanup process, the VCP law provides liability protection for certain prospective owners of eligible properties in the Program to encourage the transfer of properties. These changes provide more "certainty" regarding environmental requirements to both responsible persons and future owners of a property thereby allowing parties to more accurately predict costs and time lines associated with a cleanup and increasing the likelihood of cleanup and redevelopment.'

Established by the state legislature in 1997, Maryland's Voluntary Cleanup Program (VCP) is administered by the Waste Management Administration's Department of Environmental Restoration and Redevelopment Program (WAS ERRP) to provide State oversight for voluntary cleanups of properties contaminated with hazardous substances. The goal of the program is to increase the number of sites cleaned by streamlining the cleanup process while ensuring compliance with existing environmental regulations. Projects range from simple sites with a limited amount of contaminated soil to complex sites with multiple contaminants in soil, groundwater, surface water, sediment, and/or air.

To facilitate the voluntary cleanup and redevelopment of contaminated properties, a Memorandum of Agreement was signed by MDE and Region III of the Environmental Protection Agency (EPA). The agreement addresses federal liability of a participant in Maryland's program by providing that EPA will consider sites (in Maryland's program) of no interest. Eligible properties in Maryland's Voluntary Cleanup Program will fall under this agreement once a No Further Requirements Determination or Certificate of Completion has been issued for the property by MDE. Limited circumstances under which the agreement would not apply are also outlined. This agreement increases certainty for program participants.

The Voluntary Cleanup Program Guidance Document explains in detail how the program works. You can download the most recent version of the document by clicking <a href="here">here</a>.

Maryland legislation modified certain requirements for redevelopment through the VCP. These changes became effective October 1, 2004. A summary of changes is listed below:

- Allows oil contaminated sites and sites under active enforcement under specified conditions to be eligible for the VCP
- Increases predictability and efficiencies
- Increases public notification of cleanups; and
- Clarifies liability provisions
- Broadens eligibility for grants and loans administered through the Brownfields Redevelopment Initiative Program (BRIP)

Public Notice Requirements: Upon submission of an application to the VCP, the applicant shall post notice at the property that is the subject of the application.

Click on the following link for further information regarding the Brownfields Redevelopment Reform Act and House Bill 294.



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To learn more about the VCP, please select one of the following:

- VCP Eligibility Requirements
- VCP Application
- Overview of the VCP Process
- Response Action Plans
- Standards and Guidelines
- VCP Clean Imported Fill Material Factsheet
- VCP Legislation
- VCP Sites / Statistics/ and Fact Sheets
- Create a Map of VCP Project Sites
- View the September 20, 2005, VCP workshop presentations
- Contact Us

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#### **MARYLAND ANNOTATED CODE**

8	5-14	08.	<b>Brown</b>	fields	Program.
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(a) <i>Authorized</i> A county or municipal corporation may elect to participate in the Brownfields Revitalization Incentive Program by:
(1) (i) Submitting to the Department a list of potential brownfields sites in the county or municipal corporation, ranked in the order of priority for redevelopment recommended by the county or municipal corporation; and
(ii) Annually updating the list submitted under item (i) of this item; or
(2) (i) Enacting legislation granting property tax credits in accordance with the requirements of § 9-229 of the Tax - Property Article; and
(ii) Notifying the Department of the legislation.
(b) Requirements
(1) Notwithstanding any other provision of law to the contrary, the Department may provide a person, including a responsible person, with a low-interest loan or grant for conducting the environmental site assessment of a potential brownfields site that is required for participation in the Voluntary Cleanup Program if the person:
(i) Has not already applied to participate in the Voluntary Cleanup Program under Title 7, Subtitle <u>5 of the Environment Article</u> , but is otherwise eligible to participate in that Program; and

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(ii) Meets the eligibility requirements established by the Department.
(2) (i) If an environmental assessment is financed in whole or in part with a grant from the Department, or by a loan that is in payment default, the information contained in the environmental assessment is the property of the State.
(ii) If an environmental assessment is financed by a loan from the Department, or by a grant that is repaid, the information contained in the environmental assessment is the property of the person who contracted for the assessment.
(3) Eligibility for financial assistance for environmental assessments under paragraph (1) of this subsection does not constitute eligibility for any other financial incentives under this subtitle or for the tax credits provided under § 9-229 of the Tax - Property Article.
(4) A recipient of a grant under paragraph (1) of this subsection must repay the grant if the recipient, within 12 months after receiving the grant, does not apply to and receive approval from the Department of the Environment:
(i) To participate in the Voluntary Cleanup Program under Title 7, Subtitle 5 of the Environment Article; or
(ii) For the implementation of a corrective action plan under Title 4 of the Environment Article.
(5) A low-interest loan provided under paragraph (1) of this subsection shall convert to a market rate loan if the recipient of the loan, within 12 months after receiving the loan, does not apply to and receive approval from the Department of the Environment:
(i) To participate in the Voluntary Cleanup Program under Title 7, Subtitle <u>5 of the Environment Article</u> ; or

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(ii) For the implementation of a corrective action plan under Title 4 of the Environment Article.
(6) The Department may establish procedures and eligibility requirements for the approval of requests for loans and grants under paragraph (1) of this subsection.
(c) Request for financial assistance
(1) At the time a person applies to participate in the Voluntary Cleanup Program under Title 7, Subtitle <u>5 of the Environment Article or</u> receives approval from the Department of the Environment for the implementation of a corrective action plan under Title 4 of the <u>Environment Article</u> , the person may submit a request to the Department to determine whether the person qualifies for financial assistance for the potential redevelopment of a brownfields site.
(2) (i) Within 30 days after receipt of a request under paragraph (1) of this subsection, the Department shall notify an applicant whether, if approved to participate in the Voluntary Cleanup Program or a corrective action plan, and if approved by the Authority, the applicant qualifies for financial assistance for the redevelopment of a brownfields site.
(ii) In the Department's notice of an applicant's qualification for financial incentives under subparagraph (i) of this paragraph, the Department shall specify which of the criteria set forth in paragraph (4) of this subsection the applicant met.
(3) The Department shall determine the eligibility of a site as a qualified brownfields site based on whether:
(i) The property is located in a densely populated urban center and is substantially underutilized; or

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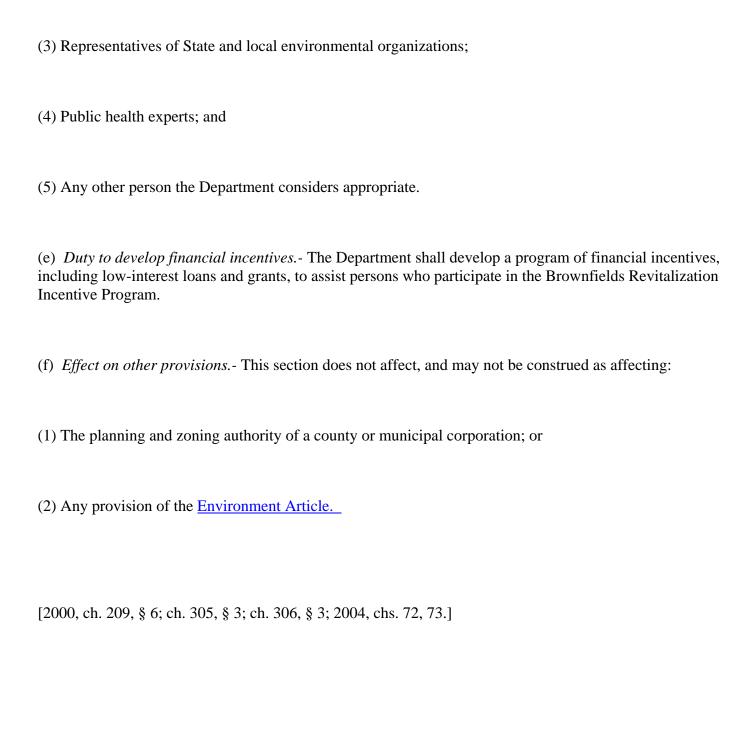
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(ii) The property is an existing or former industrial or commercial site that poses a threat to public health or the environment.
(4) The Department may consider the following criteria when selecting a qualified brownfields site:
(i) The feasibility of redevelopment;
(ii) The public benefit provided to the community and the State through the redevelopment of the property;
(iii) The extent of releases or threatened releases at the site and the degree to which the cleanup and redevelopment of the site will protect public health or the environment;
(iv) The potential to attract or retain manufacturing or other economic base employers;
(v) The absence of identifiable and financially solvent responsible persons; or
(vi) Any other factor relevant and appropriate to economic development.
(d) <i>Duty to consult.</i> - During the course of evaluating potential qualified brownfields sites, the Department shall consult with:
(1) The Department of the Environment, the Department of Planning, and relevant local officials;
(2) The neighboring community and any citizens groups located in the community;

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#### Sec. 20.117. Brownfields property tax credit.

- (a) Definitions. The following terms have the meanings indicated.
  - (1) "Brownfields Incentive Fund" means the Brownfields Revitalization Incentive Fund established under article 83A, § 3-904 of the Annotated Code of Maryland.
  - (2) "Enterprise zone" has the meaning indicated in article 83A, § 5-401 of the Annotated Code of Maryland.
  - (3) "Increased property tax liability" means the remaining Howard County and Maryland State real property tax liability, after first applying all other property tax credits applicable to the site, attributable to the increase in the assessment of a qualified brownfields site, including improvements added to the site within the tax credit period provided for in this section, over the assessment of the qualified brownfields site before this voluntary cleanup or corrective action plan.
  - (4) "Qualified brownfields site" has the meaning indicated in article 83A, § 3-901(D) of the Annotated Code of Maryland.
- (b) Participation in program; tax credit established.
  - (1) Pursuant to article 83A, § 9-229 of the Annotated Code of Maryland, Howard County elects to participate in the Brownfields Revitalization Program and to provide tax credits as authorized under that section.
  - (2) There is a Howard County property tax credit against the tax on real property of a qualified brownfields site in an amount equal to 70% of the increased property tax liability.
- (c) Application of credit. The credit shall apply in each of the taxable years immediately following the first revaluation of the qualified brownfields site after completion of a voluntary cleanup or corrective action plan for:
  - (1) Five taxable years; or
  - (2) If the site is in an enterprise zone, eight taxable years.
- (d) *Contribution to fund.* For each year the county grants a credit under this section, the county shall contribute to the Brownfields Revitalization Incentive Fund an amount equal to thirty percent of a qualified brownfields site's increased property tax liability.
- (e) Procedures.
  - (1) The owner of a qualified brownfields site may apply to the director of finance, on or before April 1 prior to the taxable year in which the credit is requested to begin, for a credit under this section.
  - (2) The application shall be accompanied by proof that the applicant has qualified for financial incentives under the "Brownfields Revitalization Incentive Program" as enacted by chapters 1 and 2 of the Acts of the Maryland General Assembly of 1997, and any additional information the director of finance requires.
  - (3) If an application under this subsection is approved, the department of finance shall forward the application to the supervisor of the department of assessments and taxation in Howard County and request a determination of the portion of the increase in assessed value that is due to the completion of the voluntary cleanup or corrective action plan or, in the case of an improvement made during the period the credit is in effect, a determination of the portion of the increase in assessed value that is due to the improvement.
  - (4) Upon receipt of the determination by the department of assessments and taxation, the department of finance shall calculate the amount of the credit and grant the credit in accordance with this section.
- (f) Termination of credit. A tax credit under this section shall terminate if:
  - (1) A person receiving a credit under this section withdraws from the voluntary cleanup program under § 7-512(A) or (B) of the Environment Article of the Annotated Code of Maryland; or
  - (2) The department of the environment withdraws approval of a response action plan, or a certificate of completion under § 7-512(E) and (F) of the Environment Article.
- 1. (C.B. 54, 1999)